

**THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

THIS IS NOT AN ATTORNEY SOLICITATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Robert A. Delitta Individually and on behalf :
of others similarly situated, :

Plaintiffs by :
Permissive Joiner, :

Case No: 07-CV-09441 (CLB)(MDF)

FLSA COLLECTIVE ACTION

-against- :

City of Mount Vernon New York, :
Municipal Corporation, :

Defendants. :

NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN

TO: All current and former police officers employed by the City of Mount Vernon at any time between February 6, 2005 through February 6, 2008 who was/is a member of the bargaining unit represented by the Police Association of the City of Mount Vernon and who held/holds the rank of police officer assigned to uniform patrol duties. This is the "similarly situated" collective action class.

INTRODUCTION

The purpose of this legal notice is to inform you that a "collective action" lawsuit has been filed against the City of Mount Vernon ("City") for alleged violations of the Fair Labor Standards Act ("FLSA") including but not necessarily limited to claims for unpaid overtime and improper denial of compensatory time. You may be a class member if you meet the definition of the "similarly situated" class as set forth above.

This notice will advise you of how your rights may be affected by this lawsuit, and will instruct you on your options for participating or not participating in this lawsuit if you so desire.

This notice has been judicially approved. The Court, however, has not made any rulings or determinations of any kind on whether the Plaintiff or Defendant is right. Nothing in this

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Notice should be understood as a statement about who the Court believes is right or may be right. The City has denied any violations of the FLSA. Furthermore, the Police Association of the City of Mount Vernon is not a party to this litigation.

DESCRIPTION OF LAWSUIT

On or about February 6, 2008, a Third Amended Complaint was filed in the United States District Court for the Southern District of New York by Robert Delitta, a police officer with uniform patrol duties for himself and on behalf of others similarly situated. In this suit, the Plaintiff claims that pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA"), the City violated its statutory obligations to pay overtime wages by failing to pay for certain activities such as the donning and doffing of police equipment and attendance at roll call. The Plaintiff seeks payment of unpaid overtime compensation, plus liquidated damages, and an award of reasonable attorneys' fees, costs and expenses, and such other relief as this Court may deem proper.

The Plaintiff brings these claims as a "collective action," which means that he has brought them for himself and those who are "similarly situated" to him in terms of these claims. The "similarly situated" group of current and former employees is defined above.

The City claims, among other things, that it complied in full with all applicable laws and denies any wrongdoing and/or liability to the Plaintiff or any other past or present employee. The City further claims that it has adopted a 7(k) work period which means that overtime does not have to be paid under the FLSA after forty (40) hours per week but rather a higher threshold number dependent on the number of days in the consecutive work period.

The City further claims it exercised, at all relevant times, good faith application of the FLSA to all employees similarly situated in this Notice.

COMPOSITION OF THE CLASS

You received this notice because the lawyers for the Plaintiff and/or City have information that may indicate that you are potentially a collective action member in this case.

YOUR RIGHT TO JOIN THIS SUIT AS AN OPT-IN PLAINTIFF

If you believe that the City failed to pay you legally required overtime and improperly denied your use of compensatory leave, you have the right to make a claim against the City as a plaintiff in this lawsuit. To do that, mail the attached Consent to Join form to the Class Attorney at the address listed below. It must be postmarked no later than thirty (30) days from Judicial Approval of this Notice plus five days for mailing or you will not be allowed to join the lawsuit.

It is entirely your own decision whether to join this lawsuit. You are not required to take any action unless you so desire. If you choose to join this suit, you will be bound by the judgment whether it is favorable or unfavorable, or any settlement of this action, if a settlement occurs. While the suit is pending, you will be required to provide information, appear for a deposition, and testify in federal court in White Plains, New York. If you choose to sign a consent form, your continued right to participate in this suit may depend, among other things, upon a later determination by the Court that you and any additional opt-in Plaintiffs are actually "similarly situated" in accordance with federal law and that your claim has been filed within the applicable statute of limitations.

If you choose not to join this suit, then the lawsuit will have no legal effect on you and you will not be affected by any judgment, favorable or unfavorable. If you do not sign and return the Consent to Join form, you will not receive any benefit, if any, from the case if the Plaintiff prevails.

LEGAL REPRESENTATION

The attorney appointed Collective Action Counsel and representing you is:

Joseph P. Carey
1081 Main Street, Suite E
Fishkill, New York 12524
(845) 896-0600

Anyone with questions about, or information regarding this lawsuit may contact Collective Action Counsel by calling the number listed above. You should also feel free to consult with any other attorney you know.

A collective action member may enter an appearance in this lawsuit through an attorney other than the appointed Collective Action Counsel listed above.

You will not be required to pay any fee for services provided by Collective Action Counsel, except that a portion of any recovery may be approved by the Court as fees and costs. If you are a prevailing party in this action, Collective Action Counsel intends to apply to the Court for an award of attorneys' fees and reimbursement of reasonable costs and disbursements from the City at the conclusion of this case. Similarly, if you are unsuccessful in this lawsuit, counsel for the City intends to apply to the Court for an award of reasonable costs and disbursements.

It is against the law for the City to retaliate against any opt-in plaintiff who joins this lawsuit.


DO NOT CALL THE COURT OR THE CLERK OF THE COURT.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE CHARLES L. BRIEANT, UNITED STATES DISTRICT JUDGE.

THIS COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFF'S CLAIMS OR OF DEFENDANT'S DEFENSES.

Date: *White Plains, N.Y.*
April 16, 2008

So-Ordered:



The Honorable Charles L. Brieant
U.S. D.C.